

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on January 26, 2001 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Donald Steinbeisser (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: Rep. Rod Bitney, Vice Chairman (R)
Rep. Dave Gallik (D)
Rep. Bob Lawson (R)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB355, HB379, 1/23/2001
Executive Action: HB339, HB349, HB95

HEARING ON HB355

Sponsor: REP. CHRISTINE KAUFMAN, HD53, Helena

Proponents: Dr. Lee Harrison, physician
Dr. Mary Ann Guggenheim, physician
Stacey Anderson, Montana NARAL, Montanans for Choice
Dr. Wayne Chamberlain, Blue Mountain Clinic
John Morrison, State Auditor
Beth Brenneman, ACLU
Patti Keebler, Montana AFL-CIO
Heather Casserty, self
J. C. Crowley, self
Sandy Bienstock, self
Daniel Casey, Montana Human Right Network
Sami Butler, Montana Nurses Assn.
Rep. Steve Gallus, HD35, Butte

Opponents: Steve Ertelt, Montana Right to Life
Joyce Brown, State Employee Benefits Plan
Steve Turkiewicz, Montana Auto Dealers
Sharon Hoff-Brodowy, Montana Catholic Conference
Julie Millam, Montana Christian Coalition
Dallas Erickson, self
Tanya Ask, Blue Cross Blue Shield of Montana
Peter Pontrelli, Montana Assn. Of Insurance and
Financial Advisors
Mary Allen, Montana Benefits and Life Company
Keith Colbo, New West Health Plan
Harris Himes, attorney and pastor
Shannon Bennett, self

Informational Witnesses: Dr. Michael Spence, Department of Health
of And Human Services

Opening Statement by Sponsor:

REP. CHRISTINE KAUFMAN, HD53, Helena, told the committee this bill will provide for private health insurance coverage for contraceptive drugs, devices and services. She said the bill will only provide for coverage in health insurance policies which already include coverage for other kinds of prescription medicine. She stated people expect insurance policies to cover their basic health needs. She said contraception is a basic health care need for much of a woman's life and this prescription should be treated like any other. She said women pay 68% more for health care than males. Many insurance companies have backed off

the coverage of Viagra as a medical necessity, she said. She added, however, that although there is no prescription available for male contraception, she suggested if one became available, it would most likely be covered.

Proponents' Testimony:

Dr. Harrison said she was asked to speak by Montana NARAL. She said this bill was 30 years overdue and was needed to help women stay healthy. She said it was difficult to understand why this was anything other than gender discrimination especially after the rush insurance companies made to cover Viagra. She testified it costs \$20-45 each month to purchase birth control pills. She stated more availability of the pill will drop the abortion rate as well as the unintended pregnancy rate. She also noted some women take the pill for acne, and other medical problems, not just for contraception.

Dr. Guggenheim testified she had carried a similar bill last session. She predicted money will be a major argument of the opponents of the bill and they will testify it will boost the cost of insurance. She noted several studies had determined contraceptive costs to be more cost-effective than pregnancy care. She also testified there is a link in all medical conditions to the rate of use with the ability to afford or obtain medicine.

Ms. Anderson said support of this bill would prevent unintended pregnancy and thereby reduce the incidence of abortion. She also testified available and affordable contraception has been shown to reduce pregnancy. Mandates are justified when the free market fails, she said. She added that often consumers do not make the decision on coverage, employers do, and they think women do not need this coverage because they are willing to pay for contraception. **EXHIBIT (buh21a01)**

Dr. Chamberlain said he ran a health care clinic and the majority of the patients were women. He said women on birth control pills not only prevented pregnancy, but also received regular PAP tests and breast exams. He called contraceptive coverage, "basic primary health care for women."

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Mr. Morrison said he was appearing as an advocate for insurance consumers. He stated many plans fail to provide women with contraceptive coverage. The national average cost per year for birth control pills is \$422, he told the committee. He estimated adding this cost would only increase health insurance premiums slightly, about one-half of 1%, for insurants under the age of

40, and have no impact on insurants over age 40, he estimated. The cost of an average pregnancy he said was \$4994, climbing to \$8619, if there was one complication. These costs, he said, would be reduced by providing adequate contraception coverage for women.

Ms. Brenneman told the committee passing this bill would help employers avoid violating the rights of women. She said because there are no contraceptive pills available for men, not providing them for women cannot be considered discrimination. She described providing birth control prescriptions for women as a cost-cutting means and said it was hard to imagine it any other way when considering the cost of an unintended pregnancy.

EXHIBIT (buh21a02)

Ms. Keebler stated one goal of her organization was to insure access to affordable drugs for all workers.

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Ms. Casserty testified she had used birth control pills since 1995 for medical purposes other than birth control. She said she used the pills to control acne and cramps. Some insurance companies would cover this with a note from the doctor stating the purpose of the pill. She called this requirement a private matter which violated the doctor-patient relationship.

EXHIBIT (buh21a03)

Mr. Crowley said his wife was a state employee and they were a one income family. Her birth control pills were \$40 each month and the co-pay was \$20. However, if they bought three months at a time, they could save \$100, and only pay the \$20 co-pay.

EXHIBIT (buh21a04)

Ms. Bienstock called the bill an issue of fairness.

Mr. Casey said he saw the situation as discrimination.

Ms. Butler said contraceptives should be put on the same level as other drugs. She stated the social and economic cost of unintended pregnancy should also be considered. **EXHIBIT (buh21a05)**

REP. STEVE GALLUS, Butte, said he wanted to go on record as a proponent of the bill.

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Opponents' Testimony:

Mr. Ertelt told the committee that he would like to correct a misstatement which had been made in earlier testimony. He said Montana Right to Life has never taken a position saying birth control pills were abortifacient in nature. He said he was present at the hearing to rise in conditional opposition. He planned to offer an amendment in executive action that would make this bill abortion neutral. The concern his organization had, on behalf of their 40,000 member households, is that there be no insurance coverage, especially with the use of taxpayer dollars, for abortion, including the use of the RU46 pill, which works as an abortifacient rather than in a contraceptive manner. If that amendment is added, Montana Right to Life would take no position on this bill.

Ms. Brown presented written testimony. **EXHIBIT (buh21a06)** She said the Department of Administration always opposed a legislative mandate on insurance. She stated her department tried to cover their employees as best they could with the funds they had. She said this bill would not break the state plan, but it would curtail other benefits. She told the committee the biggest problem in Montana is the growing number of uninsured individuals. When costs rise, people opt out, she said.

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Mr. Turkiewicz said they always oppose a legislative mandate regarding insurance. He noted the fast increase of medical costs and said his group paid \$3 million in claims in 1998 and this had risen to \$5.2 million in 2000. He said family coverage now costs almost \$500 a month. He told the committee there will never be affordable health insurance until there is affordable health care. This year he has had to decrease benefits for his members to keep the premium increase to only 27%.

Ms. Hoff-Broadway stated contraception mandates should not be imposed. She reminded the committee there were serious moral issues and health risks associated with contraceptive pills. She said any bill under consideration should have a conscience clause. **EXHIBIT (buh21a07)**

Mrs. Millam called mandated contraceptive health care coverage proposed by the bill, "a tough pill to swallow," and opposed the bill as a violation of religious beliefs. She also said the increase in health care premiums would unfairly impact seniors and others not of child-bearing age. She told the committee to consider that sexually transmitted diseases are on the rise and often young women think the only precaution they need to consider is birth control. She said in truth the only 100% effective birth control is total abstinence. She asked the committee to vote "no"

on behalf of the 40,000 member households she represented. She said her group supported the proposed amendment which would disallow abortifacients and the use of the RU46 pill.

Ms. Erickson said she would oppose the bill in its current form but would not oppose it with the amendment.

Ms. Ask said a variety of insurance benefits is offered to consumers. Some have chosen contraceptive coverage and some have not. She said every time a mandate is added, the cost is paid by the consumer. If health insurance becomes too high, the policy may be dropped. Consumers are having to make real decisions about health coverage or necessities of life.

Mr. Pontrelli opposed the bill.

Ms. Allen called the bill a mandate which had economic consequences and she opposed it.

Mr. Colbo said his company has offered a plan which included contraceptive coverage for 8 years. However, he said his company will drop prescription coverage completely in the next 10 days. He asked the committee to consider the consequences of HB355. He said passing this bill would further increase health care coverage costs.

Mr. Himes said there had been a lot of talk about money, but he said he thought a stand should also be taken on moral issues. The country has already paid a huge price, an estimated 30,000,000 lost human lives, since the Roe vs. Wade decision allowing abortion, he said. He questioned the reference in the bill regarding outpatient services and asked if those would include abortion.

Ms. Bennett opposed the bill.

Questions from Committee Members and Responses:

REP. LAIBLE inquired of **Ms. Ask** if women were charged differently than men and what this would cost the state of Montana. **Ms. Ask** replied that there is no difference in the gender rate, but there is a difference in the age rates. She said women utilize health care more than men in the 20's-30's, and men more in the 40's-50's. She said people drop insurance when it goes up. She said adding this plan would cost \$1 per person per month (\$12.00 per year).

REP. BROWN asked **Dr. Spence** how he interpreted the term in the bill, "outpatient services." **Dr. Spence** said to him it meant

providing prescriptions, medications and contraceptive devices such as IUDs. **REP. BROWN** asked if these services could include abortion. **Dr. Spence** replied no.

REP. KEANE asked **Ms. Ask** of the Blue Cross policy holders, how many were individual policies. **Ms. Ask** answered 25,000.

REP. LAIBLE asked **Dr. Chamberlain** what kind of clinic he ran in Missoula and if there were a means for low cost or no cost birth control pills to be obtained. **Dr. Chamberlain** replied he ran a family practice and some of his patients were on Medicaid. He also said he believed Planned Parenthood offered a sliding scale through which individuals in financial need would be able to obtain birth control pills. **J.J. Strait** confirmed birth control pills were available through Planned Parenthood.

Closing by Sponsor:

REP. KAUFMAN clarified that Planned Parenthood covered 20,000 women and that there were 190,000 women of child-bearing age in Montana. She also said this bill does not cover abortion, the RU46 pill, or the morning-after pill. As to the cost to the economy, she said the question is who pays. She asked if the individual woman should pay or if the costs should be shared. She said the fact is that women pay for 68% greater health care costs than men, out of their own pocket. This 68% is for costs not covered by insurance. She said the major opposition was from witnesses who do not like mandated insurance benefits. She said private companies are concerned about the "bottom line." When employees are dependent on these companies for their basic health care, sometimes these companies need to be regulated for the public good.

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HEARING ON HB379

Sponsor: **REP. KATHLEEN GALVIN-HALCRO, HD48, Great Falls**

Proponents: **Patti Keebler, Montana AFL-CIO**
Gene Fenderson, Montana Heavy and Highway Committee

Opponents: **Brad Griffin, Montana Restaurant and Retail Assn.**
Bob Pyfer, Montana Credit Union League
Pat Keim, Burlington-Santa Fe Railroad

**Barry "Spook" Stang, Montana Motor Carrier Assn.
Web Brown, Montana Chamber of Commerce**

Opening Statement by Sponsor:

REP. KATHLEEN GALVIN-HALCRO, HD48, Great Falls, told the committee this is an act requiring an employer, with 10 or more employees, to provide an employee a paid rest of not less than 10, or more than 15 minutes, during each continuous 4½ hours of work. The bill also provides a penalty and an immediate effective date. She said it had been brought to her attention that call centers of telemarketing firms often did not allow breaks for employees during their entire 4 or 5 hour shifts. This bill would instruct employers they must give employees a 10-15 minute break period after working 4½ hours, during which they can take care of personal business such as using the restroom or calling home.

Proponents' Testimony:

Ms. Keebler said her organization would support the bill as long as it does not conflict with existing agreements in place. She called rest breaks "important issues." **EXHIBIT (buh21a08)**

Mr. Fenderson said this act will bring Montana in line with many states. He told the committee they will hear the argument that most employers already give breaks, however, this bill is for those employers that deny breaks. He said he always supported decent working conditions regardless if workers belonged to the union or not.

Opponents' Testimony:

Mr. Griffin explained that in the restaurant business when there are customers coming in, they need to be served. He said breaks need to be taken at times when the restaurant is not busy and cannot be taken at scheduled times because there is an ebb and flow to business. He called it impractical for a waitress or a cook to tell a customer, "I can't wait on you, I need to take my break now."

Mr. Pyfer said he was not opposed to breaks, but he did oppose this bill. He said one of the services of his league was to provide a model personnel policy. He noted, however, satellite branches often only have one or two employees and these rules are difficult to guarantee in extremely busy times. Also, if working with a customer, an employee is not allowed to leave and go on break. He said policing this act would be a nightmare and employees might intentionally miss a break in order to get the higher pay required by this act's penalty.

Mr. Keim said the amendment makes no allowances for agreements in place. He noted breaks are often a part of the bargaining agreement. He said the employer he represented had a policy of giving adequate breaks.

Mr. Stang opposed the act because he said the act was already covered by federal rules. He asked the committee to exclude employees covered by the Federal Motor Carriers Safety Act.

Web Brown opposed the bill due to a lack of flexibility and inability to service customers.

Informational Testimony:

Mr. John Andrew, Department of Labor and Industry, said one of the most common questions his department received from employees was regarding the requirements of breaks and meals.

Questions from Committee Members and Responses:

REP. BOOKOUT-REINICKE asked **Mr. Andrew** what the penalty was if the employer did not pay the correct overtime. **Mr. Andrew** said the penalty was not to exceed 110% of the wages determined.

REP. MUSGROVE asked **REP. GALVIN-HALCRO** why the break was at ten employees, and did not the fewer than 10 have the need for a break as well. **REP. GALVIN-HALCRO** said employers needed to have enough employees to overlap during breaks, but this did not mean that less than 10 employees did not also need a break.

REP. LAIBLE asked **REP. GALVIN-HALCRO** why her bill did not require lunch breaks. She replied that most employees do not expect to be paid for lunch. **REP. LAIBLE** then asked if the employees did not know when they went to work there that there would not be a break. **REP. GALVIN-HALCRO** said in this case, it was never specified to the individual there was no break. **REP. LAIBLE** said at \$8 an hour these breaks would amount to \$19.20 per week. He asked if the sponsor would consider this an unfunded mandate. **REP. GALVIN-HALCRO** said the average wage at these call centers was \$6.00 an hour. **REP. LAIBLE** asked if the bill was specific only to the call center in Great Falls. **REP. GALVIN-HALCRO** said it was not.

Closing by Sponsor:

REP. GALVIN-HALCRO said she believed most employers had the best interests of their employees in mind. She said the bill will make the employees more productive and effective.

EXECUTIVE ACTION ON HB339

Motion: REP. BOOKOUT-REINICKE moved that HB339 DO PASS.

Discussion:

REP. ROME said he was opposed to the bill because it gets away from the rights of labor.

REP. KEANE agreed and said it takes out collective bargaining across the state to address a specific situation in Kalispell.

Vote: Motion HB339 failed 4-15 with Bookout-Reinicke, Fritz, Galvin-Halcro, and Musgrove voting aye.

Motion/Vote: REP. BROWN moved that HB339 BE TABLED. Motion carried 15-4 with Bookout-Reinicke, Fritz, Galvin-Halcro, and Musgrove voting no.

EXECUTIVE ACTION ON HB349

Motion: REP. PRICE moved that HB349 DO PASS.

Discussion:

REP. LAWSON told the committee there were amendments coming.

REP. BROWN moved to postpone executive action on HB349. The motion carried unanimously.

EXECUTIVE ACTION ON HB95

Motion/Vote: REP. MATTHEWS moved that HB95 DO PASS.

Discussion:

REP. MATTHEWS said told the committee the Weights and Measures Division needs to be adequately funded if they are going to be asked to do their job.

REP. BROWN asked if there was a way to require less inspections, perhaps one inspection every two years, rather than an inspection each year.

REP. MATTHEWS said the statute called for yearly inspection and it would require another bill to change it to two years.

REP. PRICE said he believed, since testimony showed that the same bureau already set the fees for the inspections of pumps and meters, that it would be appropriate for the bureau to set the fees to inspect scales as well.

Motion carried 13-6 with Bitney, Brown, Himmelberger, Laible, McKenney, and Rome voting no.

ADJOURNMENT

Adjournment: 10:25 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh21aad)